

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE: B-217797

DATE: September 12, 1985

MATTER OF: National Security Agency Employee
Applicability of Per Diem - Europe -
Nonworkday Travel

DIGEST:

An employee performed temporary duty (TDY) travel overseas at two locations that are subject to different per diem rates. He also performed personal travel on nonworkdays, between TDY assignments, and stayed at several locations subject to different per diem rates. Since the employee left his TDY location for personal reasons and performed indirect travel to his next TDY site, computation of his per diem should be made on a constructive basis over the usually traveled route as provided for by paragraph 1-2.5b of the Federal Travel Regulations.

This decision is in response to a request from Mr. Kenneth F. Chute, Finance and Accounting Officer, National Security Agency. It concerns the proper method of computing temporary duty per diem in Europe where travel between duty points occurs over a weekend.

BACKGROUND

A National Security Agency employee performed temporary duty (TDY) travel during the period September 22 through October 4, 1984, from the United States to Vaihingen and Bad Aibling, Germany, and return. He performed TDY in Vaihingen from Sunday, September 23, until Friday, September 28. On Friday evening, following completion of his assignment in Vaihingen, he drove by rental car to Garmisch where he spent the night. On the following day (Saturday, September 29), he traveled to Berchtesgaden where he spent the night. The following evening (Sunday, September 30), he traveled on to Bad Aibling, his second TDY point, where he remained for several days before returning to the United States.

The submission notes that the per diem rates for each of the four locations differ (Vaihingen - \$78; Garmisch - \$63; Berchtesgaden - \$47; and Bad Aibling - \$40). It is

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also noted that only two of those locations (Vaihingen and Bad Aibling) were TDY points and that all travel to Garmisch and Berchtesgaden over the weekend was personal to the employee, totally disassociated from his TDY assignments.

The question asked is:

"In view of the changes in rate for each city the employee visited, at what rate should the employee be paid for his travel that weekend between TDY assignments?"

DECISION

The provisions of law governing the entitlement of Federal employees to be reimbursed for expenses associated with official travel, including per diem, are contained in 5 U.S.C. § 5702 (1982), and regulations thereunder. Those regulations are contained in chapter 1 of the Federal Travel Regulations (FTR), incorp. by ref., 41 C.F.R. § 101-7.003 (1984). As these regulations relate to civilian personnel of Department of Defense establishments, they are supplemented by the provisions of Volume 2, Joint Travel Regulations (2 JTR).

In addition to the above authority, FTR, para. 1-7.2(c) provides that the payment of per diem in foreign areas shall be "at a rate not in excess of the rate prescribed by the Secretary of State and published in the Standardized Regulations (Government Civilians, Foreign Areas)."

While the maximum rate payable is established under FTR, para. 1-7.2(c), FTR, para. 1-7.6 provides the rules by which payment at that rate shall be computed. Subparagraph 1-7.6(d) provides in part:

"d. Computation of basic entitlement.

* * * * *

(2) Travel of more than 24 hours.

In computing the per diem instead of subsistence for continuous travel of more

than 24 hours, the calendar day (midnight to midnight) shall be the unit, and for fractional parts of a day at the commencement or ending of such continuous travel constituting a travel period, one-fourth of the rate for a calendar day shall be allowed for each period of 6 hours or fraction thereof. When change in per diem rate is made during a day, the rate of per diem in effect at the beginning of the quarter in which the change occurs shall continue to the end of that quarter."

See also in this connection, 2 JTR, para. C4553-1 and 3a.

Under the above provisions, where changes in locality per diem rates are concerned, computation is made on a quarter (1/4) of a day basis with the new rate becoming effective at the beginning of the quarter of a day immediately following the employee's arrival at his new TDY point. Further, while under FTR, para. 1-7.5a(2), travelers are considered to be in a subsistence status on nonworkdays which are bounded by workdays while in a TDY status, FTR, para. 1-2.5b provides:

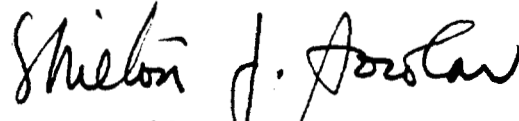
"b. Indirect-route or interrupted travel.
When a person for his/her own convenience travels by an indirect route or interrupts travel by direct route, the extra expense shall be borne by him/her. Reimbursement for expenses shall be based only on such charges as would have been incurred by a usually traveled route. * * *"

We have held that the location at which an employee chooses to spend his nonworkdays while in a travel status is of no particular concern to the Government insofar as it does not interfere with the performance of his assigned duties. Thus, the employee's entitlement to per diem expenses continues as authorized. Philip J. Sullivan, B-205696, June 15, 1982. Since the employee stayed at Garmisch and Berchtesgaden on nonworkdays for personal reasons, and not for TDY purposes, we know of no authority to apply the per diem rate in effect at those locations.

B-217797

However, since the employee left his TDY location for personal reasons and performed indirect travel to his next TDY site, computation of his per diem should be made on a constructive basis over the usually traveled route as provided for by FTR, para. 1-2.5b supra.

We understand that the distance and time of travel between Vaihingen and Bad Aibling by direct route approximated the distance and time of travel that the employee traveled between Vaihingen and Garmisch, a non-TDY location. As a result, his per diem entitlement over that weekend must be established on a constructive basis as though he traveled directly to Bad Aibling. Therefore, since he apparently could have reached Bad Aibling that night, the Vaihingen per diem rate remains in effect until the next quarter of a day following his constructive arrival in Bad Aibling, at which time the per diem rate for Bad Aibling goes into effect and remains in effect for the remainder of the weekend. The question is answered accordingly.



Acting Comptroller General
of the United States